

## Remarks

In the present response, claims 1 – 24 are presented for examination.

### **Claim Rejections: 35 USC § 102(a)**

Claims 1-20 are rejected under 35 USC § 102(a) as being anticipated by WO 02/41147 A1 (O'Neil).

Claims 1-20 recite elements not taught or even suggested in O'Neil. Some examples are provided below for the independent claims.

As one example, independent claim 1 recites that the at least one reference software includes files common to a plurality of versions of the software application. O'Neil does not teach this claim recitation.

The examiner interprets the transfer identity information in O'Neil as the claimed "reference software." According to the examiner, this transfer identity software in O'Neil is used "to provide identity information which version of software application currently is used on an electronic device per a request from update server" (see OA mailed 02/24/2010 at p. 3). Nowhere does O'Neil teach or even suggest that this identity information includes files common to a plurality of versions of the software application.

Independent claim 12 recites that the reference software includes a plurality of shared files with the application software. The transfer identity information in O'Neil (argued by the examiner to be the claimed reference software) is argued to include identity information about which version of software is currently used. This identity information does not include a plurality of shared files with the application software.

For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference (see *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990)).

For at least these reasons, claims 1 – 20 are not anticipated by O'Neil.

**Claim Rejections: 35 USC § 103(a)**

Claims 21 – 24 are rejected under 35 USC § 103(a) as being unpatentable over WO 02/41147 A1 (O'Neil) in view of US publication number 2005/0289533 (Wang). These rejections are traversed.

Claims 21 – 24 recite one or more elements that are not taught or suggested in O'Neil in view of Wang. These missing elements show that the differences between the combined teachings in the art and the recitations in the claims are great. As such, the pending claims are not a predictable variation of the art to one of ordinary skill in the art. Some examples are provided below for the independent claims.

As one example, independent claim 22 recites that the reference software includes files common to the at least one software application and to the second software version. The transfer identity information in O'Neil (argued by the examiner to be the claimed reference software) is argued to include identity information about which version of software is currently used. This identity information does not include files common to the software application and to a second software version of the software application. Wang fails to cure these deficiencies.

As one example, independent claim 24 recites that the reference software includes at least one of a plurality of shared binaries, firmware code, dynamic link libraries (DLLs), and JAVA archives (JAR files) with the at least one software application. The transfer identity information in O'Neil (argued by the examiner to be the claimed reference software) is argued to include identity information about which version of software is currently used. This identity information does not include at least one of a plurality of shared binaries, firmware code, dynamic link libraries (DLLs), and JAVA archives (JAR files) with the software application. Wang fails to cure these deficiencies.

Regarding independent claim 21, the examiner previously admitted that O'Neil does not teach the limitations of claim 21 related to generating a third update package for updating the at least one software application, the third update package being generated based upon difference information between the

first and second update package, and updating the at least one software application using the third update package. Applicants agree with these admissions. The examiner, however, attempts to cure these deficiencies with paragraph [0020] in Wang. Applicants respectfully traverse.

Paragraph [0020] in Wang teaches that when an electronic device requires an update, the electronic device only receives a delta package representing what the device does not already have. Either the client or the server compares image levels to determine this delta package.

As such, nowhere does O'Neil in view of Wang teach or even suggest generating a third update package for updating the at least one software application, the **third update package being generated based upon difference information between the first and second update packages and updating the at least one software application using the third update package** such as recited in independent method claim 21.

The differences between the claims and the teachings in the art are great since the references fail to teach or suggest all of the claim elements. As such, the pending claims are not a predictable variation of the art to one of ordinary skill in the art.

For at least these reasons, claims 21 – 24 are allowable over O'Neil in view of Wang.

### **CONCLUSION**

In view of the above, Applicants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should be directed to the following address:

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Respectfully submitted,

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